

Staff Summary Report



Hearing Officer Hearing Date: October 16, 2007

Agenda Item Number: 7

SUBJECT: This is a public hearing for a request by **SIMPLY BURGERS (PL070418)** located at 580 South College Avenue, Suite No. 103 for one (1) use permit.

DOCUMENT NAME: 20071016dssd03

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **SIMPLY BURGERS (PL070418)** (Sanjay Matken, applicant; Lawrence & Geyser Development, property owner) located at 580 South College Avenue, Suite No. 103 in the CC, City Center District for:

ZUP07149 Use permit to allow live entertainment.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

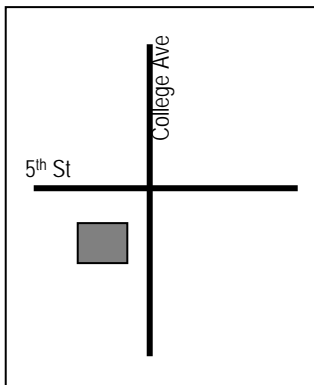
A handwritten signature in black ink, appearing to read 'SEA'.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions 1-6

ADDITIONAL INFO: Simply Burgers is requesting a use permit to allow live entertainment at a restaurant/bar located at 580 South College Avenue in the CC, City Center District. To date, staff has received no public input on this request. The existing use is not out of character with the area's existing retail and commercial businesses. Staff recommends approval of the use permit request with attached conditions.



PAGES:

1. List of Attachments
2. Comments; Reason for Approval;
3. Conditions of Approval; History & Facts/Description;
4. Zoning & Development Code Reference.

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor Plan
6. Staff Photograph(s)

COMMENTS:

Simply Burgers is requesting a use permit to allow live entertainment at restaurant/bar located at 580 South College Avenue in the CC, City Center District. Simply Burgers has also applied for a Series 12 liquor license. The previous business Julio's Too, also had a Series 12 Liquor license but had not applied for Live Entertainment. The live entertainment will consist of a variety of musical genres, including live acoustic guitar a few nights a week. The applicant indicated he will not feature live rock and roll bands at this property because he wants entertainment that will complement the surrounding center and neighborhood that will not cause noise ordinance violations.

To date, staff has received no public input on this request.

Use Permit

The Zoning and Development Code requires live entertainment to obtain a use permit in the CC, City Center District. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This use is similar to others in the area; sound from music will have to conform to the noise ordinance.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed requested use would not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding structures and uses.

Conclusion

Staff recommends approval of the use permit, subject to the conditions of approval

REASON(S) FOR APPROVAL:

1. The business is a general commercial use (restaurant/bar), and is compatible with the other businesses on the property and within the area.
2. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
3. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S)
OF APPROVAL:

- 1. This use permit is valid for “Simply Burgers “and is transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff and apply for a transfer of the use permit.
- 2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
- 3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney’s office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
- 4. Any expansion or intensification of the use will require review of the use permit.
- 5. The use permit is valid for the plans as submitted within this application.
- 6. The restaurant Simply Burgers will adhere to the City of Tempe Noise Ordinance.

HISTORY & FACTS:

August 12, 1993	CC930044: Use Permit approved for Express Yogurt to allow an outdoor dining in the City right-of-way.
November 2, 1993	BA930239: Use Permit approved for Spring Break Tanning Salon to allow a tanning salon.
August 18, 1998	BA980243: Use Permit for Venus Espresso and Tea Bar to allow a espresso, coffee, and tea bar.
December 1, 1998	BA980331: Use Permit approved for Julio’s Too Restaurant to allow a restaurant and outdoor patio.
September 5, 2000	BA000248: Use Permit approved for Spring Break Tan & Nails to allow a Tanning and Nail salon.
February 19, 2002	BA020011: Use Permit approved for Energy Squared to transfer the previous use permit for tanning salon and additional use permit to allow body piercing and tattoo within the existing salon.
December 2, 2003	RRC03054: Use Permit approved for Curly Skateboard Shop to allow sales of skateboards and accessories.

DESCRIPTION:	Owner – Lawrence & Geyser Development
	Applicant – Sanjay Matken
	Existing Zoning – CC, City Center District
	Parcel Size– 10,244 s.f. / .23 acres
	Suite Area – 1,440 s.f.

**ZONING AND
DEVELOPMENT**

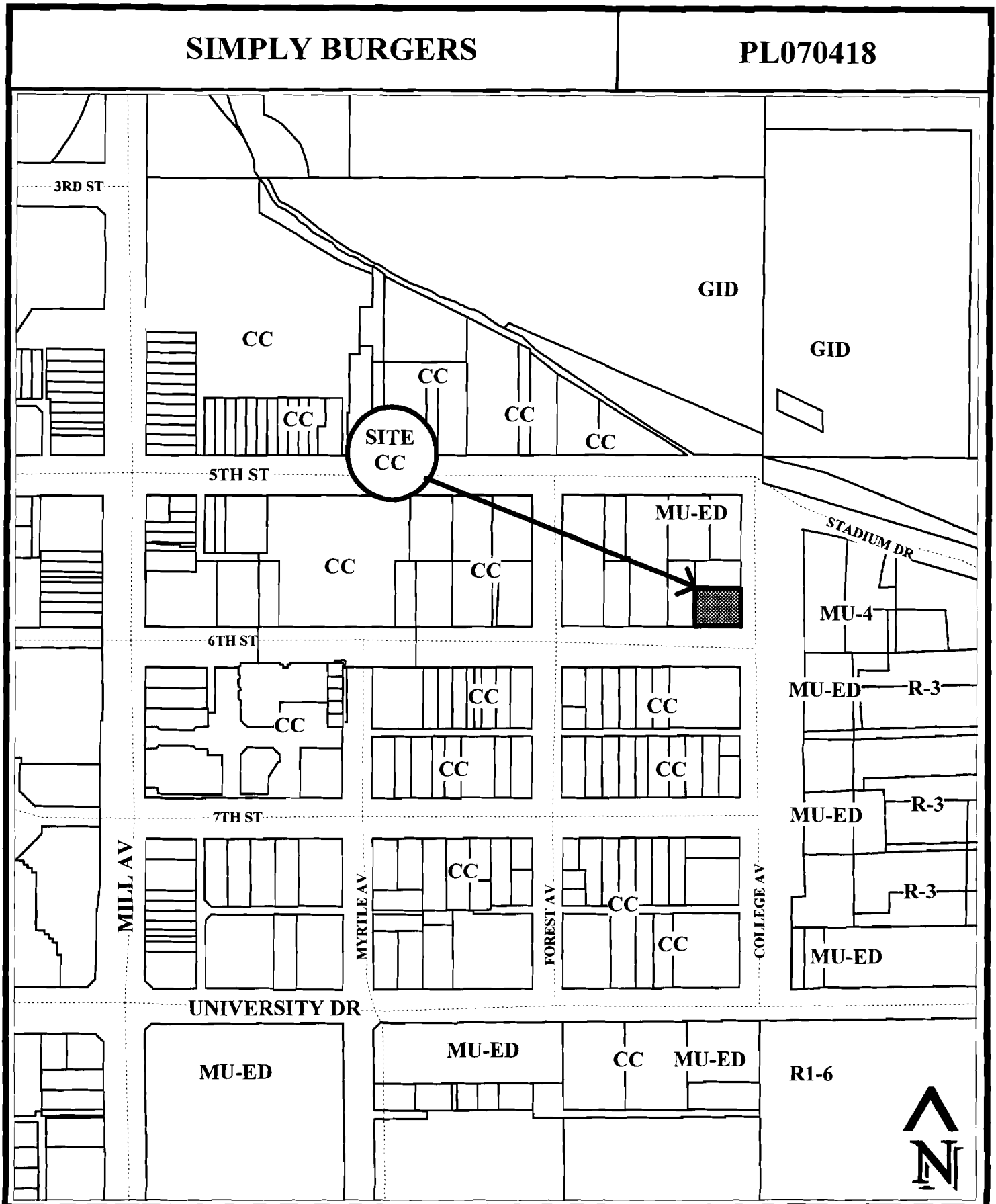
CODE REFERENCE:

Part 3, Chapter 2, Section 3-202, Table 3-202A – Permitted Land Uses in CC, City Center District.

Part 6, Chapter 3, Section 6-308 – Use Permit

SIMPLY BURGERS

PL070418





SIMPLY BURGERS (PL070418)

Date: September 18, 2007

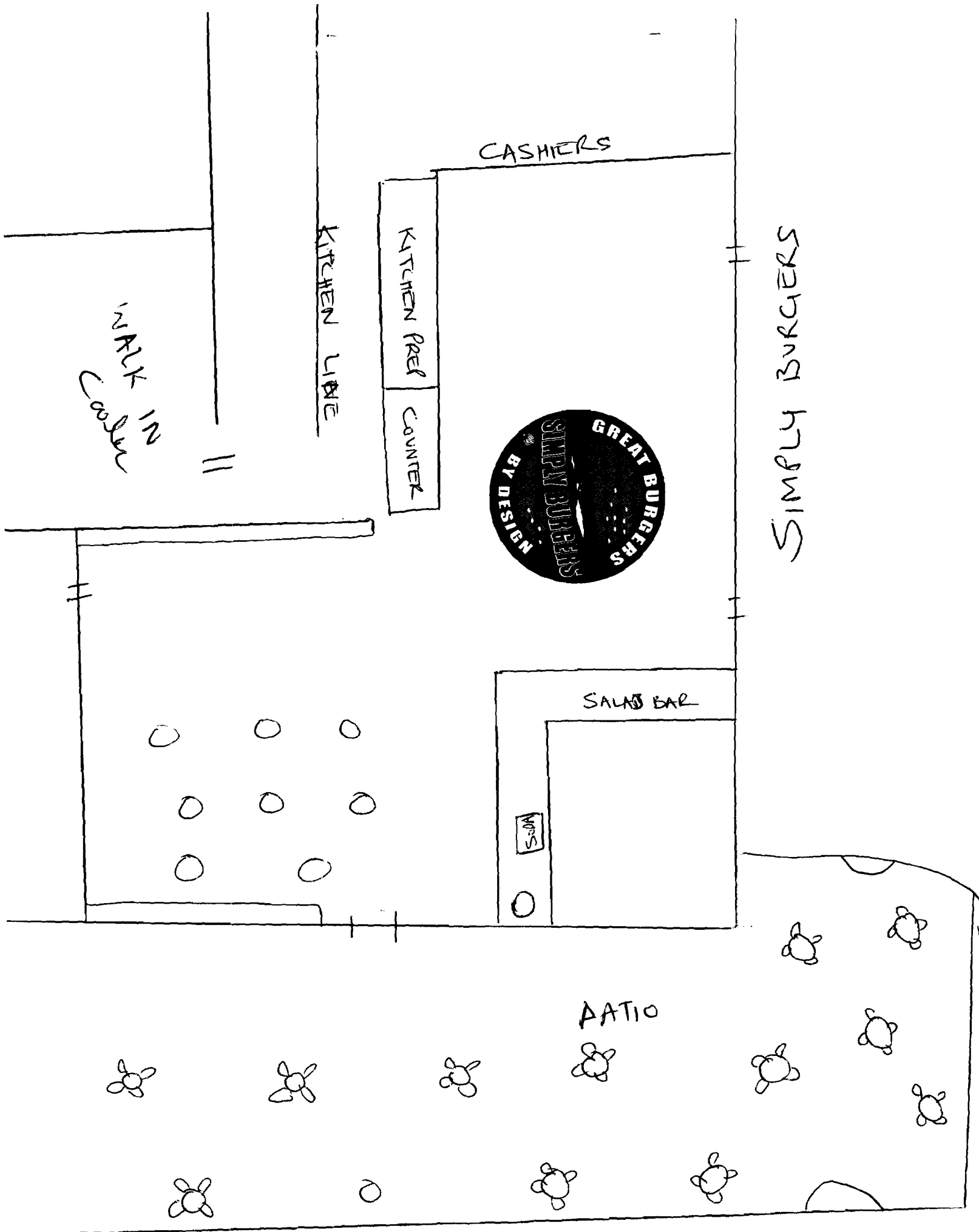
To: City of Tempe Development Services

From: Simply Burgers
580 S. College Ave
Tempe, AZ 85281
(480) 621-7373
SANJAY MATKEN

RE: Letter of Explanation

Simply burgers is a restaurant committed to offering gourmet meals and great experience to its customers. Since majority of the customers come from ASU, we plan to offer them a place where they can feel comfortable spending their time. We plan to offer live music to our customers on the patio as well as inside the restaurant at the minimum twice a week. The purpose of the music is purely for enjoyment as opposed to dance music. We will offer eclectic mix of music which will include acoustic ensemble also. Another tenant in our plaza already offers live bands/Dj for its customers "**Dirty Devil**". We anticipate live music on week days between 6-10PM and on the weekends between 6-11PM.

Sanjay Matken





SIMPLY BURGERS

580 S COLLEGE AVE

PL070418

FRONT OF BUSINESS: VIEW TO WEST